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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,105	10/02/2003	Charles Frederick Brucker	50103-560	8401

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MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

MCDONALD, RODNEY GLENN

ART UNIT	PAPER NUMBER
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1753

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/676,105

Applicant(s)

BRUCKER ET AL.

Examiner

Rodney G. McDonald

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2-2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Double Patenting

Claims 24 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 21. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20, 21, 23 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 20, 21, 23 and 24 are unclear because it is unclear how the claim can be both a method and product.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 4, 5, 7-10, 12, 13 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada (Japan 05-311425) in view of Zejda (U.S. Pat. 5,22,968).

Regarding claims 1, 12, Yamada teach in Figure 1 a method and apparatus for producing a film in a chamber 1 to be maintained at a reduced pressure by exhaust port 2. (See Machine Translation 0009) A target can be present in the chamber for sputtering. (See Machine Translation 0009) A gas supply means 3 for injecting a gas into the chamber is present which extends into the chamber and comprises a plurality of different size holes 5A, 5B, 5C and 5D. (See Machine translation 0009) The reactive gas is supplied through the gas supply means to provide a reactive gas having the same flow rate over the whole range of the vacuum vessel 1. As a result, the composition of the deposition material is deposited on the substrate uniformly. (See Japio Abstract)

Regarding claims 2, 13, the gas supply means 3 comprises an inlet portion 4 and an outlet portion comprised of a plurality of different sized orifices 5A, 5B, 5C, 5D. The

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size of the outlets progressively increases with distance from the inlet portion. (See Japio Abstract; Machine Translation 0009; Figure 1 and 2)

The differences between Yamada and the present claims is that the mounting means for positioned the substrate is not discussed (Claim 1), the gas supply having a wishbone shape with the orifices increasing in diameter from the inlet is not discussed (Claims 4, 15), providing a pair of mutually spaced sputtering sources with a pair of wishboned shaped gas supplies is not discussed (Claims 5, 16), the gas supply means being ring shaped with the gas outlet orifices increasing in diameter from the distance of the inlet is not discussed (claims 7, 17), providing facing targets with a pair of ring shaped gas supplies with the outlets of the ring shaped gas supplies having an increasing diameter from the inlet is not discussed (Claims 8,18), the outlets facing toward the central space is not discussed (Claim 9) and the outlet orifices being circularly-shaped is not discussed (Claim 10).

Regarding the mounting means of claim 1, Zejda teach in a substrate mounting means that can hold a substrate for coating. (See Figs. 1-4; Column 2 lines 61-63)

Regarding claims 4, 15, Yamada teach a wishbone shape in Fig.1. (See Yamada Fig.1) The diameters of the outlets increase from the inlet. (See Abstract; Machine Translation 0009) As to the arcuate shape of the wishbone arms, Zejda recognize in Fig. 4 contouring the shape of the gas supply device 25 or 28 to match the targets and substrate being coated therefore one of ordinary skill would contour Yamada wishbone arms with the circular target and disk when sputtering. (See Fig. 4)

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Regarding claims 5, 16, the wishbone gas supply is discussed above. Zejda further teach providing mutually spaced sputtering sources with mutually spaced apart gas supplies to form a sputtered layer on a substrate. (See Fig. 4; Column 1 lines 60-64)

Regarding claims 7, 17, Zejda et al. teach providing a ring shaped gas supply means. (Fig. 4; Column 3 lines 32-34) Yamada already discussed teach providing outlet of the gas supply increasing in diameter from the inlets. (See Yamada discussed above)

Regarding claims 8, 18, Zejda et al. teach providing mutually spaced facing targets with mutually spaced gas ring sources. (See Fig. 4; Column 3 lines 32-34) Yamada already discussed teach providing outlet of the gas supply increasing in diameter from the inlets. (See Yamada discussed above)

Regarding claim 9, Zejda teach that the outlets facing toward the central space. (See Fig. 4)

Regarding claim 10, Zejda shows the outlet orifices to be circular. (See Fig. 4)

The motivation for utilizing a mounting means for positioning the substrate, utilizing the gas supply having a wishbone shape with the orifices increasing in diameter from the inlet, providing a pair of mutually spaced sputtering sources with a pair of wish boned shaped gas supplies, utilizing a gas supply means being ring shaped with the gas outlet orifices increasing in diameter from the distance of the inlet, providing facing targets with a pair of ring shaped gas supplies with the outlets of the ring shaped gas supplies having an increasing diameter from the inlet, providing the outlets facing

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toward the central space and providing the outlet orifices being circularly-shaped is that it allows for increasing the evenness of the coating on the substrate (Zejda Column 1 lines 43-45) and coating with uniformity (Yamada Abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Yamada a mounting means for positioning the substrate, utilizing the gas supply having a wishbone shape with the orifices increasing in diameter from the inlet, providing a pair of mutually spaced sputtering sources with a pair of wish boned shaped gas supplies, utilizing a gas supply means being ring shaped with the gas outlet orifices increasing in diameter from the distance of the inlet, providing facing targets with a pair of ring shaped gas supplies with the outlets of the ring shaped gas supplies having an increasing diameter from the inlet, providing the outlets facing toward the central space and providing the outlet orifices being circularly-shaped as taught by Yamada combined with Zejda because it allows for increasing the evenness of the coating on the substrate and coating with uniformity.

Claims 1-3 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada (Japan 05-311425) in view of Von Hartel (U.S. Pat. 3,976,555).

Yamada is discussed above and all is as applies above. (See Yamada discussed above) In Drawing 2 a linear embodiment is shown with the diameters of the outlets increasing from the inlet. (See Drawing 2 of Yamada)

The differences between Yamada and the present claims is that the substrate support is not discussed (Claims 1, 12) and the gas supply means comprising a linearly elongated tube having first and second ends where the inlet portion forms the first end

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and the outlet portion extends towards the second with the size of the outlet orifices progressively increasing toward the second end. (Claim 3, 14)

Regarding the substrate support of claims 1, 12, Von Hartel teach a substrate holder in the form of drum 20 and rollers 26 and 28. (See Fig. 2)

Regarding claims 3, 14, Von Hartel teach a linear gas introduction device in the form of an elongated tube having a first end and second end where the inlet portion forms the first end and the portion extends towards the second end having outlet orifices. (See Fig. 3) Yamada already discussed above teach in Fig. 2 that the outlets should increase in size from the inlet. (See Yamada discussed above)

The motivation for utilizing a linear gas inlet is that it allows for achieving uniformity of film formation. (Column 2 lines 12-16, lines 34-35)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Yamada by utilizing a substrate holder and a linear gas inlet as taught by Von Hartel because it allows for achieving uniformity of film formation.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada in view of Zejda as applied to claims 1, 2, 4 and 5 above, and further in view of Latz (U.S. Pat. 5,167,789).

The difference not yet discussed is the plurality of outlet orifices facing away from the central space is not discussed. (Claim 6)

Regarding claim 6, Latz suggest that the outlet of the gas supply means be positioned such that the plurality of orifices face away from the central space in the sputtering chamber. (See Figure)

The motivation for having the orifices face away from the central space in the sputtering chamber is that it allows for stable operation of reactive sputtering systems. (Column 2 lines 20-27)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have had the orifices face away from the central space as taught by Latz et al. because it allows for stable operation of a reactive sputtering system.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada in view of Zejda as applied to claims 1, 2 and 10 above, and further in view of Hassan et al. (U.S. Pat. 4,270,999).

The difference not yet discussed is the outlet orifices comprising a plug is not discussed. (Claim 11)

Hassan et al. teach a plug in an orifices for controlling the flowrate of gases. (Column 4 lines 20-38)

The motivation for utilizing a plug in an orifice for gas flow is that it allows for controlling the flow rate of the gas. (See Abstract)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a plug in a gas outlet orifice as taught by Hassan et al. because it allows for control of the flow rate of the gas.

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Claims 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada in view of Zejda as applied to claims 1, 2, 4, 5, 7-10, 12, 13, 15-18 above, and further in view of Suzuki et al. (U.S. Pat. 6,627,253).

The differences not yet discussed is where a cobalt based alloy with oxide separated magnetic grains being deposited is not discussed (Claim 22), the cobalt based alloy with oxide separated magnetic grains having 360 degrees of uniformity is not discussed (Claims 19, 21, 24) and the magnetic recording medium is not discussed (Claims 20, 23).

Regarding claim 22, Yamada and Zejda discussed above teach how to uniformly deposit reactive films on a substrate. (See Yamada in view of Zejda discussed above) Suzuki et al. teach that sputtering in an oxygen comprising atmosphere can produce cobalt based alloy for a magnetic recording medium where the magnetic crystalline grains are segregated by the oxide. (Column 4 lines 23-25; Column 5 lines 8-28)

Regarding claims 19, 21, and 24, Suzuki et al. teach a cobalt based alloy with oxide separated magnetic grains. (Column 4 lines 23-25; Column 5 lines 8-28) Utilizing the technique of Yamada in view of Zejda for reactive deposition one can achieve the 360 degrees of uniformity. (See Yamada in view of Zejda discussed above)

Regarding claims 20, 23, Suzuki et al. teach incorporating the layer in magnetic recording medium. (See Abstract)

The motivation for depositing a cobalt based alloy with oxide separated magnetic grains, producing a cobalt based alloy with oxide separated magnetic grains having 360 degrees of uniformity and producing the magnetic recording medium with the cobalt

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alloy is that it allows for a magnetic medium with low media noise, a high S/N ratio and a high reliability to corrosion. (See Abstract)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have deposited a cobalt based alloy with oxide separated magnetic grains, to have produced a cobalt based alloy with oxide separated magnetic grains having 360 degrees of uniformity and to have produced the magnetic recording medium with the cobalt alloy as taught by Suzuki et al. because it allows for a magnetic medium with low media noise, a high S/N ratio and a high reliability to corrosion.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney G. McDonald whose telephone number is 571-272-1340. The examiner can normally be reached on M- Th with Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "Rodney G. McDonald". The signature is written in a cursive, flowing style with some loops and flourishes.

Rodney G. McDonald

Primary Examiner

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RM

September 21, 2005